



Contents lists available at ScienceDirect

Journal of Forensic and Legal Medicine

journal homepage: www.elsevier.com/locate/jflm

Book reviews

A Clinicians Brief Guide to the Mental Capacity Act, Nick Brindle, Tim Branton, Alison Stansfield, Tony Zigmund. RcPsych Publications (Jun 2013). £18, ISBN: 978 1 908020 63 5

Mental Capacity Legislation: Principles and Practice, Edited Rebecca Jacob, Michael Gunn, Anthony Holland (Eds.). RcPsych Publications (Jul 2013). £25, ISBN: 978 1 909726 00 0

These two short books provide an excellent guide for clinicians around the provisions of the Mental Capacity Act 2005. This important statute has provided a legal framework for assessing capacity and managing patients without capacity.

The first book (Brindle) has a sister publication on the Mental Health Act which it is designed to supplement. Clinicians need to understand the differences between the two Acts and which one is applicable. The second book (Jacob) devotes more time to these differences and is somewhat more detailed generally.

Both books are high quality and easy to understand. They follow a similar structure outlining the Mental Capacity Act and the assessment of capacity supplemented by clinical scenarios. The process of making care decisions on a 'best interests' basis in emergency and non emergency situations is outlined. I found this particularly interesting as I am currently working in Learning Disability Psychiatry and a large proportion of our clinical decisions are made on a multi disciplinary 'best interests' basis.

The complex Deprivation of Liberty Safeguards provisions are explored in detail. These were introduced as an amendment to the MCA and came into force in 2009. DOLS covers a gap where adults over 18 without capacity are in effect detained in a hospital or care home without the protection of the MHA. Such adults can have significant restrictions on their liberty such as not being allowed out of a care home. This is an evolving area of case law and as a somewhat confused DOLS assessor I found the books set out clearly how the case law has influenced the practical application of DOLS. Jacobs book was a little more detailed on this front.

The Court of Protection and the role of the Independent Mental Capacity Advocate is also covered in great detail in Brindle's book, less so in Jacob's.

Advance directives and powers of attorney are also well covered in both books.

For s12 approved Forensic Medical Examiners I would highly recommend one of these books if you carry out DOLS work as part of your section 12 role. DOLS assessors require yearly update training on case law and it all made perfect sense to me when I read the book whereas I was left a little confused after my training day.

Forensic Medical Examiners generally will find the books useful as the assessment of capacity is an integral part of forensic practice: we often see people whose capacity is affected by intoxication and may refuse medical treatment. Forensic practitioners often do not document that they have formally considered capacity in these

situations and as we sometimes have to offer treatment on a best interests basis (eg a drunk diabetic) it is very useful to understand the law and the rationale behind this. Doctors with training responsibilities to multidisciplinary teams will also find useful material here.

The books will also be useful for doctors studying for MFFLM examinations as it provides clear guidance on some very complex areas of law. Similarly Medico Legal Advisors would find them useful.

In terms of which book to choose: both are excellent but the Jacob's book is a more stand alone volume for anyone wanting to purchase just one book. However I ordered the MHA volume to sit alongside the Brindle MCA book in my own library as both are essential reading for my s12 role in forensic and psychiatric practice.

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Available online 16 November 2013

<http://dx.doi.org/10.1016/j.jflm.2013.10.005>

Forensic Fraud: Evaluating Law Enforcement and Forensic Science Cultures in the Context of Examiner Misconduct, Brent E. Turvey. Elsevier (2013). 284 pp., Number of chapters: 11, ISBN: 978-0-12-408073-7

Forensic science involves the systematic analysis of materials, information and data from different sources with a view to determining facts or an evidence-based conclusion.

Fictional portrayal of forensic science by Sherlock Holmes and popular television dramas such as Crime Scene Investigation (CSI) has nurtured public interest. However, there is growing evidence of miscarriage of justice based on misleading forensic evidence. Corruption and fraud in forensic activity can have distortive effects on the truth and devastating impacts such as destroying the lives of innocent defendants, the careers of the forensic examiners involved and the costs of retesting evidence. Evidence endorsed by "expert opinion" carries an implicit assumption that it is a credible reflection of findings. This book sheds light on FRAUD, a recognised but poorly investigated aspect of forensic science.

Each chapter starts with an interesting quote from literature, forensic scientists and even Shakespeare. The chapters are well illustrated with real cases demonstrating the impact and consequences of fraud. Chapters conclude with summary points.

The layout and colour differentiation of the book allows for easy reading.

The introductory chapter gives a background to forensic fraud across practice settings with a predominantly American historical context. Definitions of terms, like *scientific misconduct*, *forensic examiners*, *forensic fraud*, *perjury* and *“ghost authorship”* ensure readers are grounded in the principles of the book. Fraud is a dark topic in the forensic community with complex interplay of motivations and consequences. The author states, “anyone can commit a fraud”, therefore likely perpetrators are difficult to predict.

In the second chapter, Occupational Fraud is explored using the triangle of “opportunity, pressure and rationalisation” recognising that organisational cultures may be behind fraud. Readers are reminded fraud is distinct from error and negligence by virtue of intent. The wide variability across forensic science disciplines and practice with regards to methodologies, techniques, reliability, and the types and numbers of potential sources of error are acknowledged. In some areas, there are no “gold standard” forensic methods and there may be competing cultures between scientists and law enforcement agencies.

The chapter on Fraud and Scientific Culture, opens with the quote “The scientific endeavour is based on vigilance, not trust” which summarises aptly core Popperian theories. Readers are introduced to differences between falsification, fabrication, plagiarism and research misconduct. Prevalence of these issues are concluded as much higher than often reported and just the “tip of the iceberg”.

The differences and similarities between the values and cultures of forensic scientists and law enforcement agencies are explored with the “bad apple” hypothesis challenged. Readers are also introduced to the inherent loyalty challenges experienced by scientists embedded in law enforcement agencies struggling to conform to institutional cultures. This includes committing, tolerating, concealing or defending acts of overt misconduct – often for years. While there is a dearth of data on the actual frequency of forensic fraud, a series of case studies and reports shed light on the ease in which this can permeate forensic culture.

In chapter 8, data from 2000 to 2010 are also presented to buttress the point and qualitative sources from courts, agencies, print and electronic media considered other than solely published peer literature. While the data tables and charts could be better presented, they only slightly detract from the core information. The subsequent chapter presents more detailed multivariate analysis of the preceding one and may be found over inclusive to the less data analytic reader. The sample size is small and there are numerous limitations to the study cited which are instructive.

In concluding, the author suggests some useful reforms to the recruitment process, education, organisational culture, and understanding of role conflict in forensic science. These suggestions would also benefit new services. The book ends with a rich collection of case studies, which encourage readers to think analytically about contexts of fraud. The book is well indexed and references are current and usefully include web-based material.

While this book has a predominantly American slant, the lessons are rich and transferable to western and less industrialised or less forensically developed countries. It can be argued that the book actually sets a governance framework for developing forensic organisations globally. Apart from the forensic community, historians, scientific researchers, expert witnesses, organisational behaviour specialists and psychologists and occupational health practitioners may also find this an important reference text on their shelves.

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Available online 5 December 2013

<http://dx.doi.org/10.1016/j.jflm.2013.11.005>